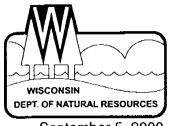
File



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor George E. Meyer, Secretary

Appleton Field Station Agricultural Services Center 3369 W. Brewster Street Appleton, Wisconsin 54914-1602 Telephone 920-832-1800 FAX 920-832-1800

September 5, 2000

Wara Enterprises, Inc. Attn: Richard Wara P.O. Box 1815 Appleton, WI 54913

Subject:

Case Closure with a Groundwater Use Restriction and Municipal Notification of Residual Contamination in a Public Right of Way, Richmond Street Service Station, 1601 N. Richmond Street, Appleton, Wisconsin, WDNR BRRTS ID# 03-45-000982

Dear Mr. Wara:

On October 29, 1999, the above-named site was reviewed by the Northeast Region Closure Committee for a determination as to whether or not the case qualified for closeout under ch. NR 726, Wis. Adm. Code. The committee agreed that this case could be closed pending the filing of a groundwater use restriction with the deed running with the property and notification to the appropriate municipal departments of residual contamination in a public right of way.

We have received a copy of the completed groundwater use restriction for this site and proof of filing with the Outagamie County Register of Deeds. We have also received documentation of municipal notification of residual contamination in a public right of way and the abandonment of all site monitoring points. Based on the investigative and remedial documentation provided to the Department and the filing of the groundwater use restriction, it appears that the petroleum contamination at the above-named site has been remediated to the extent practicable under current site conditions. Therefore, closure of this site has been granted and no further action is necessary at this time. In the future, this deed restriction may be amended with approval from the Department if conditions change at the site and the residual contamination has been remediated.

If you have any additional relevant information which was not formerly provided to the Department, you should submit this information to the Department for evaluation. If you have any questions regarding this determination, please contact me at (920) 832-1803.

Sincerely.

Jennifer Huffman, P.Ġ Hydrogeologist

Remediation and Redevelopment Program

cc: Steven Ziesmann -- Godfrey & Kahn, 780 N. Water Street, Milwaukee, WI 53202-3590 Kate Juno -- Natural Resource Technology, Inc., 23713 W. Paul Road, Pewaukee, WI

53072



Document Number

QUIT CLAIM DEED

Richard P. Wara quit-claims to Wara Investments, LLC, a Wisconsin limited liability company, the following described real estate in Outagamle County, State of Wisconsin:

See attached

GB1-30586-1

Recording Area
Name and Return Address
Richard P. Wara
Dealers Petroleum Corporation
P.O. Box 1815
Appleton, Wisconsin 54913-1815

10-1-1187-01, 10-1-1188-00, 31-5-2464-00, 31-5-2461-00, (Parcel Identification Number)

This is not homestead property. Dated this <u>18</u> day of <u>June</u> , 1998,	·
	Richard P. Wara
AUTHENTICATION	ACKNOWLEDGMENT
Signature(s)	STATE OF WISCONSIN BROWN COUNTY
authenticated this day of, 19	Personally came before me this 18 day of 1998, the above named Richard P. Wara to me known to be the person who executed the foregoing instrument and acknowledged the same.
signature	Syst M. Steinhager
type or print name	type or print name Lynn M. Sternhagen
TITLE: MEMBER STATE BAR OF WISCONSIN (If not,	Notary Public, <u>Brown</u> County, WI. My commission is permanent, (If not, state expiration date:
THIS INSTRUMENT WAS DRAFTED BY Benjamin W. Laird Godfrey & Kabn. S.C.	Sept. 20 , 1998.) "Names of persons signing in any capacity should be typed or printed below their signatures.

OUTAGAMIE COUNTY PROPERTIES

PARCEL NO. 1 (Wisconsin Avenue):

Part of Lot 1, Certified Survey Map No. 270 recorded in Volume 2 of Certified Survey Maps, page 270, as Document No. 804822, Town of Grand Chute, Outagamie County, Wisconsin, described as follows: A parcel of land located in the NW 1/4 of the NE 1/4 of Section 29-21-17, Town of Grand Chute, Outagamie County, Wisconsin, bounded and described as follows: Commencing at the North 1/4 corner of Section 29; thence S88°48'56"E, 427.50 feet along the North line of the NE 1/4 of Section 29; thence S02°52'17"W, 238.54 feet to the point of beginnng; thence continuing S02°52'17"W, 46.01 feet; thence N88°53'35"W, 205.24 feet to the Easterly line of U.S.H. "41", thence N10°17'17"E, 47.07 feet along said Easterly line to the North line of Lot 1 of Certified Survey Map No. 270; thence S88°45'18"E, 199.15 feet along said North line to the point of beginning. Parcel No. 10-1-1187-01

AND ALSO:

That part of the Northwest 1/4 of the Northeast 1/4 of Section 29, Township 21 North, Range 17 East, in the Town of Grand Chute, Outagamie County, Wisconsin, described as follows:

Commencing at the Northwest corner of the Northeast 1/4 of said Section 29; thence Easterly along the North line of Section 29, 252.5 feet to the point of beginning; thence continuing Easterly along the North line of Section 29, 175.0 feet; thence Southerly parallel with the West line of the Northeast 1/4 of Section 29, 239.0 feet; thence Westerly parallel with the North line of Section 29, 199.35 feet to the Easterly right of way line of U.S.H. "41"; thence Northeasterly along said right of way line, 171.25 feet; thence Northerly along said right of way line, 70.0 feet to the point of beginning; reserving the North 50.0 feet of the herein described parcel of land presently used for public highway. Parcel No. 10-1-1188-00

AND ALSO:

A parcel of land being part of Lot 1 and part of Lot 2 Certified Survey Map Number 270, as recorded in Volume 2 of Certified Survey Maps on page 270 as Document Number 804822, being located in the Northwest 1/4 of the Northeast 1/4 of Section 29, Township 21 North, Range 17 East, Town of Grand Chute, Outagamie County, Wisconsin, bounded and described as follows: Commencing at the North 1/4 corner of said Section 29; thence N89°04'49"E, 427.50 feet along the North line of the Northeast 1/4 of said Section 29; thence S00°46'02"W, 284.55 feet along a west line of Lot 1 of Certified Survey Map Number 270 to the point of beginning; thence N89°00'10"E, 35.00 feet; thence S00°46'02"W, 19.01 feet; thence S89°00'10"W, 35.00 feet; thence S00°46'02"W, 14.56 feet; thence S88°39'04"W, 209.84 feet to a west line of Lot 2 of said Certified Survey Map Number 270; thence N08°10"48"E, 35,29 feet along said west line; thence N89°00'10"E, 205.24 feet to the point of beginning. Said parcel contains 0.178 acres of land more or less. Subject to all easements and restrictions of record.

PARCEL NO. 2 (Richmond Street):

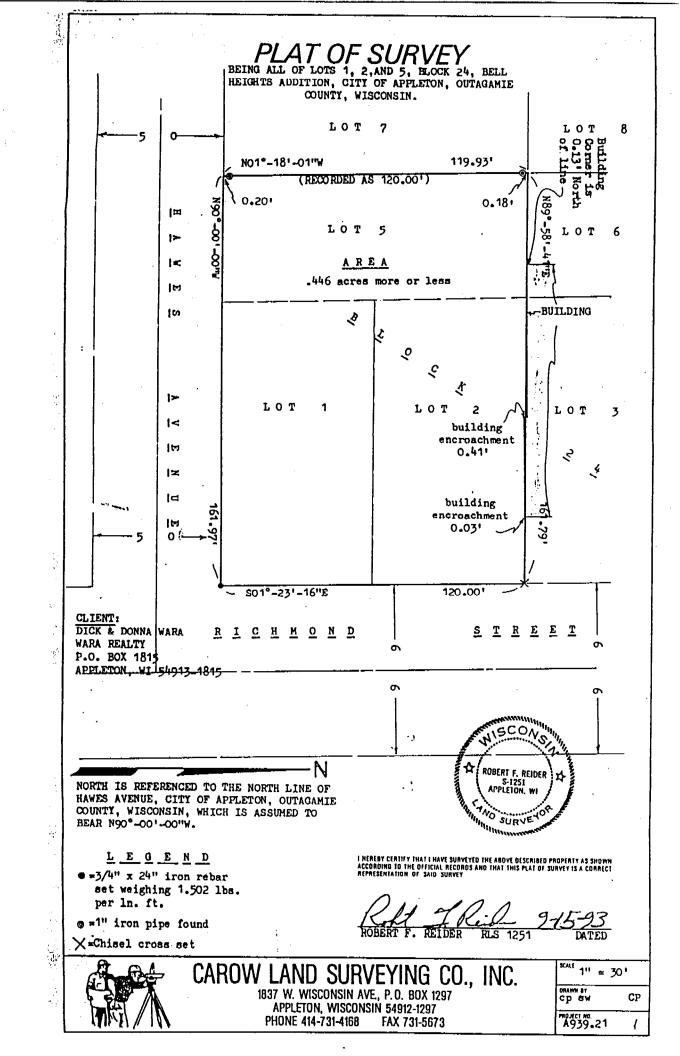
Lot 5, Block 24, Bell Heights Addition, City of Appleton, Outagamie County, Wisconsin. Parcel No. 31-5-2464-00

AND ALSO:

All of Lots 1 and 2 in Block 24, Bell Heights Addition, City of Appleton, Outagamie County, Wisconsin. Parcel No. 31-5-2461-00

AND All of Lot with the County, wasidual rande. Howes Ave,

1BH



31P5

1374748 DOCUMENT NO.

GROUNDWATER USE RESTRICTION

Declaration of Restrictions

In Re: Lot 1 in Block 24, Bell Heights Addition, City of Appleton Outagamie County, Wisconsin. Parcel No. 31-5-2461-00.

OUTAGAMIE COUNTY RECEIVED FOR RECORD

JUL 3 1 2000

AT G CLOCK A.M. PAN.

JANICE FLENZ

REGISTER OF DEEDS

THIS SPACE RESERVED FOR RECORDING DATA

6/10/2

Mr. Richard P. Wara, Managing Member, Wara Investments, LLC c/o Diane M. Marchik 780 North Water Street Milwaukee, WI 53202

31-5-2461-00

Parcel Identification Number

DECLARATION OF RESTRICTIONS

In Re: Lot 1 in Block 24, Bell Heights Addition, City of Appleton, Outagamie County, Wisconsin. Parcel No. 31-5-2461-00

State of Wisconsin) ss.
County of Outagamie)

WHEREAS, Wara Investments, LLC is the owner of the above-described Property (the "Property"); and

WHEREAS, one or more petroleum discharges have occurred at this Property. In particular, contaminated groundwater above Ch. NR 140, Wis. Admin. Code enforcement standards exists on this Property. Groundwater samples collected on March 11, 1999 from Monitoring Well-7 (MW-7) and Monitoring Well-9 (MW-9) revealed the presence of methyl tert-butyl ether in concentrations of 290 micrograms per liter (ug/l) and 1900 ug/l, respectively, in the shallow groundwater. The location of monitoring wells MW-7 and MW-9 is depicted on the attached Exhibit A and hereby made a part of this restriction.

WHEREAS, it is the desire and intention of the property owner to impose on the Property restrictions which will make it unnecessary to conduct additional investigation or remediation activities on the Property at the present time.

WHEREAS, natural attenuation has been approved by the Department of Natural Resources to remediate the contaminants in the groundwater exceeding Ch. NR 140 Wis. Admin. Code, groundwater standards within the boundaries of this Property.

WHEREAS, construction of wells where water quality exceeds the drinking water standards in Ch. NR 809 Wis. Admin. Code is restricted by Ch. NR 811 Wis. Admin. Code and Ch. NR 812 Wis. Admin. Code. Special well construction standards or water treatment requirements, or both, or well construction prohibitions may apply.

NOW THEREFORE, Wara Investments, LLC hereby declares that all of the Property described above is held and shall be held, conveyed or encumbered, leased, rented, used, occupied and improved subject to the following restrictions:

Anyone who proposes to construct or reconstruct a well on this Property is required to contact the Department of Natural Resources, Bureau of Drinking Water and Groundwater, or its successor agency, to determine what specific prohibitions or requirements are applicable and to obtain Department of Natural Resources approval, prior to constructing or reconstructing a well on this Property. No well may be constructed on this Property unless applicable requirements are met.

If construction is proposed on this property that will require dewatering, or if groundwater is to be otherwise extracted from this property, while this groundwater use restriction is in effect, the groundwater shall be sampled and analyzed for contaminants that were previously detected on the property and any extracted groundwater shall be managed in compliance with applicable statutes and rules.

This restriction is hereby declared to be a covenant running with the land and shall be fully binding upon all persons acquiring the above-described Property whether by descent, devise, purchase, or otherwise. This restriction inures to the benefit of and is enforceable by the Wisconsin Department of Natural Resources, its successors or assigns. The Department, its successors or assigns, may initiate proceedings at law or in equity against any person or persons who violate or are proposing to violate this covenant, to prevent the proposed violation or to recover damages for such violation.

Any person who is or becomes owner of the Property described above may request that the Wisconsin Department of Natural Resources or its successor issue a determination that the restrictions set forth set forth in this covenant are no longer required. Upon the receipt of such a

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request, the Wisconsin Department of Natural Resources shall determine whether or not the restrictions contained herein can be extinguished. If the Wisconsin Department of Natural Resources determines that the restrictions can be extinguished, an affidavit can be recorded to give notice that this groundwater use restriction is no longer binding.

By signing this document, Richard P. Wara asserts that he is duly authorized to sign this document on behalf of Wara Investments, LLC.

IN WITNESS WHEREOF, the owner of the Property has executed this Declaration of Restrictions this 21st day of 3000.

Richard P. Wara, Managing Member,

Wara Investments, LLC

STATE OF WISCONSIN

)) SS

COUNTY OF OUTAGAMIE

Personally came before me this 2 day of 1, 2000, the above-named Richard P. Wara, to me known to be the person who executed the foregoing instrument and acknowledged the same.

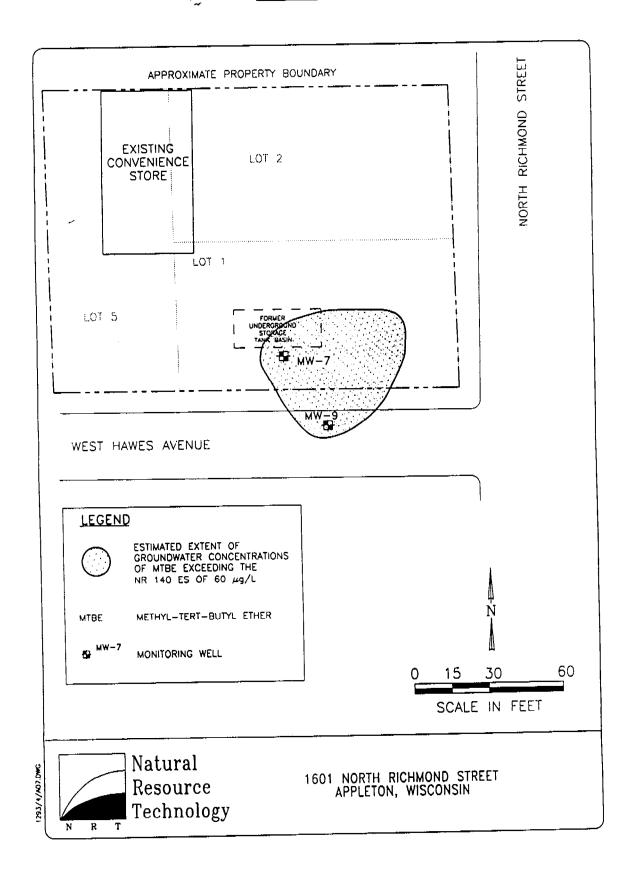
Notary Public, State of Wisconsin My commission: 4.20.03

This document was drafted by Godfrey & Kahn, S.C., based on information from the Wisconsin Department of Natural Resources and after recording should be returned to:

Richard P. Wara, Managing Member Wara Investments, LLC c/o Diane M. Marchik, Esq. Godfrey & Kahn, S.C. 780 North Water Street Milwaukee, WI 53202

MW425607_1.DOC

EXHIBIT A





780 NORTH WATER STREET MILWAUKEE, WI 53202-3590 TEL 414-273-3500 FAX 414-273-5198 www.gklaw.com

> GODFREY & KAHN, S.C. MILWAUKEE APPLETON

> > GREEN BAY

LAPOLLETTE GODFREY & KAHN MADISON

June 26, 2000

Ms. Paula Vandehey Director of Public Works City of Appleton 100 North Appleton Street Appleton, WI 54911

Ms. Cynthia Hesse City Clerk City of Appleton 100 North Appleton Street Appleton, WI 54911

RE: Notification of Residual Groundwater Contamination within the West Hawes Avenue Right-of-Way, Adjacent to the Property Identified as 1601 North Richmond Street, Appleton, WI WDNR BRRTS ID # 03-45-000982

Dear Ms. Vandehey & Ms. Hesse:

This letter provides written notification of the presence of methyl tert-butyl ether in the shallow groundwater within the West Hawes Avenue right-of-way located adjacent to the property located at 1601 North Richmond Street (the "Property). Groundwater samples collected on March 11, 1999 from Monitoring Well-7 (MW-7) and Monitoring Well-9 (MW-9) revealed the presence of methyl tert-butyl ether in concentrations of 290 micrograms per liter (ug/l) and 1900 (ug/l) respectively, in the shallow groundwater. The location of MW-7 and MW-9 is depicted on the attached Exhibit A.

This notification is being made pursuant to NR726.05 (2)(b)4. Wis. Admin. Code which provides as follows:

If there are chapter NR140 enforcement standard exceedances on the property or properties, a groundwater use restriction which satisfies the requirements of sub. (8)(am) has been recorded at the county register of deeds office for each property, except that a groundwater use restriction is not required for a public street or a highway right-of-way where there are ch. NR140 enforcement standard exceedances in a stable or receding plume provided that the municipal clerk, and the municipal department or state agency that is responsible for maintaining the street or highway have been given written notification of the presence of residual soil and groundwater contamination within the right of way.

Ms. Paula Vandehey Ms. Cynthia Hesse June 26, 2000 Page 2

Although we have recently submitted a draft groundwater use restriction for the West Hawes Avenue right-of-way to Mr. Greg Carman, in accordance with the above-cited closure requirements, a groundwater use restriction is no longer required for the right-of-way and we are hereby withdrawing the request that the City record such a restriction.

If you have any questions or would like to discuss this matter further, please call me at (414) 273-3500.

Very truly yours,

GODFREY & KAHN, S.C.

Steven J. Ziesmann

SJZ:blc

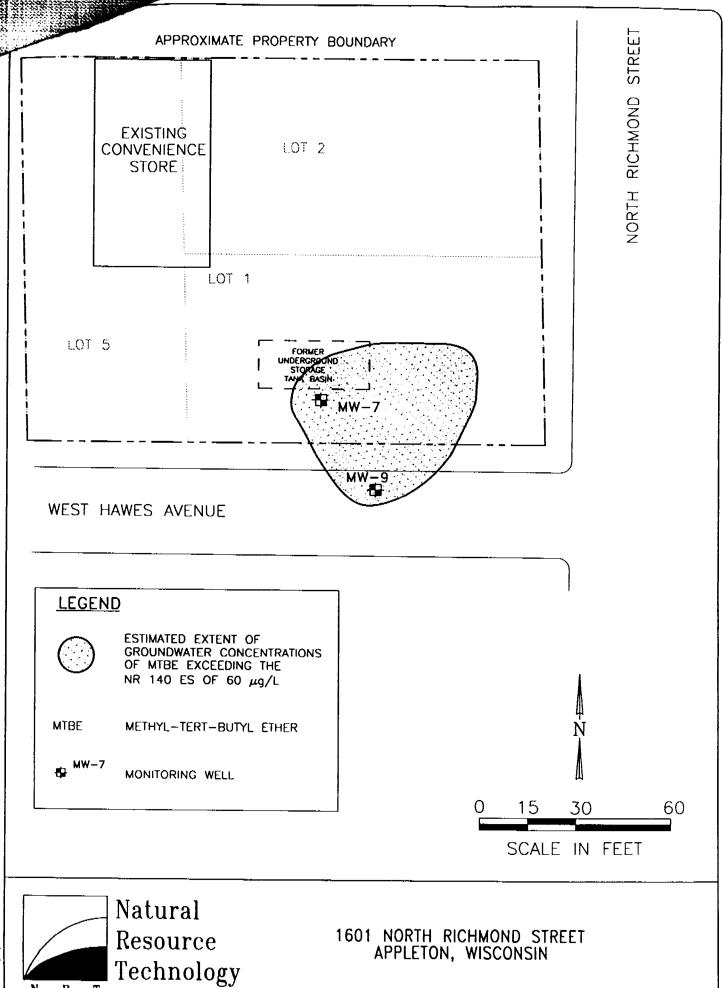
cc: Mr. Richard Wara (w/enclosures)

Ms. Jennifer Huffman (w/enclosures)

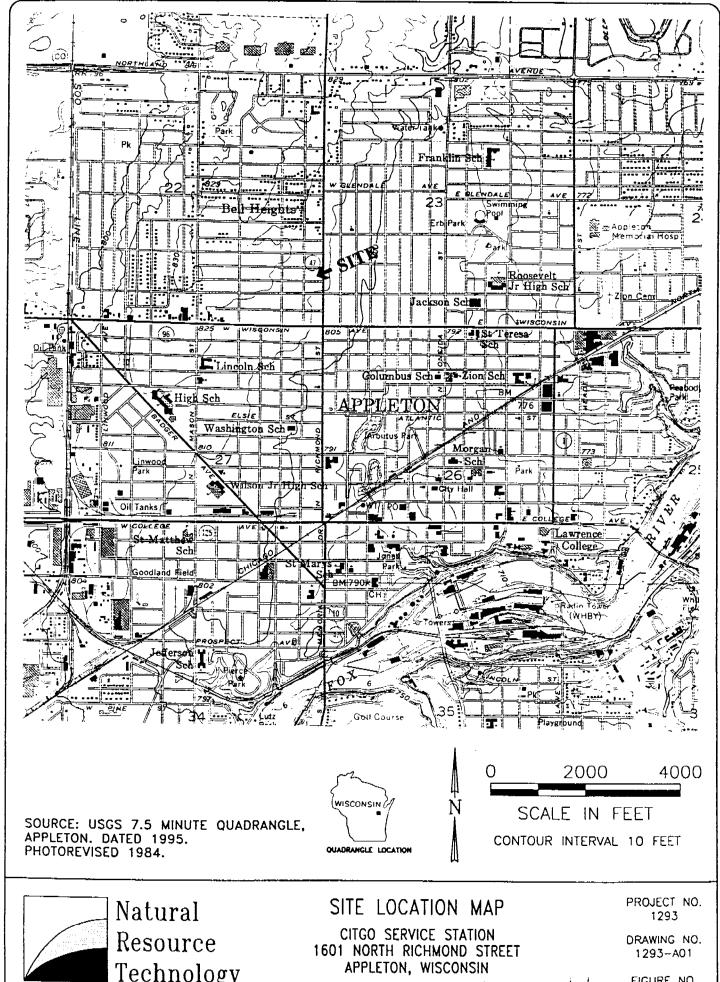
Mr. Timothy Hanna (w/enclosures)

Diane M. Marchik, Esq. (w/enclosures)

MW428282 1.DOC



1293/4/A07.DWG



Technology

DRAWN BY: TAS

APPROVED BY:

DATE: 09 2199

FIGURE NO.

MONTGOMERY WATSON Drawing Number 1272018 05160101 B1 WARA ENTERPRISES, INC. 1601 NORTH RICHMOND STREET 1601 NORTH RICHMOND STREET APPLETON, WISCONSIN • SITE PLAN AND SAMPLING LOCATIONS FIGURE 1

14/8//E/ apod CCM Æ KDZ

79-71-51

WISCONSIN DEPARTMENT OF TRANSPORTATION SOIL BORING LOCATION AND NUMBER APPROXIMATE EXTENT OF SOILS EXCAVATED BY WARZIN INC. DURING AUGUST AND SEPTEMBER 1993 ABANDONED MONTORING WELL LOCATION AND NUMBER APPROXIMATE EXTENT OF RESIDUAL OFF—SITE GROUNDWATER CONTAMINATION EXISTING UNDERGROUND STORAGE TANK CONFIRMATORY SOIL SAMPLE LOCATION AND NUMBER EXISTING PUMP ISLANDS AND CANOPY APPROXIMATE PROPERTY BOUNDARY HYDRAULIC PROBE LOCATION AND NUMBER MONITORING WELL LOCATION AND NUMBER UNDERGROUND TELEPHONE LINE SOIL BORING LOCATION AND NUMBER FORMER PUMP ISLANDS NATURAL GAS LINE SANITARY SEWER CATCH BASIN WATER LINE % € CS3 112

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NOTES

1. BASE MAP DEVELOPED FROM A DRAWING TITLED
PROPOSED SITE PLAN, DAIED MAY 26, 1993
PROVIDED BY WARA ENTERPRISES, INC. AND FROM
SITE DOSEFWATIONS MADE BY WARZIN INC. ON
JUNE 50, 1994.

2. APPROXIMATE EXTENT OF SOILS EXCAVATED OBTAINED FROM WARZYN INC. REPORT TITLED "LINDERGROUND STORAGE TANK REMEDITION AND CLOSURE ASSESSMENT ACTIVITIES," MAY 1994. HYDRAULIC PROBE LOCATIONS BASED ON SITE OBSERVATIONS WADE BY MONTGOMERY WATSON ON NOVEWBER 17, 1997.

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SCALE IN FEET

\$ NORTH RICHMOND STREET ***** B4/MW4 . 2 H S : MW08 B3/MW/8 WEST HAWES AVENUE EXISTING CONVENIENCE STORE

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Table 2 - Groundwater Analytical Summary Wara - 1601 N. Richmond Street, Appleton, WI

Table 2 - Groundwater Analytical Summary Continued... Wara - 1601 N. Richmond Street, Appleton, WI

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			.2,5,1 Trimetitylbenzen	5.8	<0.64	<0.64	<0.29	<0.64	<0.64	<0.64	<0.64	<0.64	49.0>	Wisconsin G	77796	480***	
nds (µg/L)		:	1,2,4 nəsmədiyinəmri T	4.4	0.45 J	<0.35	<0.22	<0.35	<0.35	<0.35	<0.35	<0.35	<0.35		***96	480***	
nic Compou			Toluche	-4,0	<0.35	<0.35	<0.20	<0.35	<0.35	<0.35	<0.35	<0.35	<0,35		9.89	343	
Volatile Organic Compounds (ug/L			Methyl Tertisty Butyl Ether	1,500	3/100	1,900	25	32	<0.31	<0.31	<0.31	<0.31	40.31		12	99	
			Ethylbenzene	4 6	<0.34	©.34	<0.22	<0.34	0.34	<0.34	<0.34	<0,34	<0.34		140	700	
			pensene	-2.6	<0.32	<0.32	<0.13	<0.32	<0.32	<0.32	<0.32	<0.32	<0.32		0.5	S	
			otad galteilaoM	86/90/50	01/19/99	03/11/60	05/06/98	66/61/10	03/11/99	66/61/10	03/11/99	66/61/10	03/11/89		n Limit	ındard	
		noi	neso.I gariolinol/	_		ب نسلا	MW-10 0		ماح م	MW-11 0	ه صلا	MW-12 0	<u></u>		Preventive Action Limit	Enforcement Standard	
	À			*		۶	×		2	Σ	⊶	Σ	۲		يّ	Ē	

1) Data from 1992 through 1997 obtained from Montgomery Watson, Inc., Request For Closure Letter Report - Table 2, 12/1797

2) Concentrations which exceed a PAL have been boxed and concentrations which exceed an ES have been boxed and shaded.

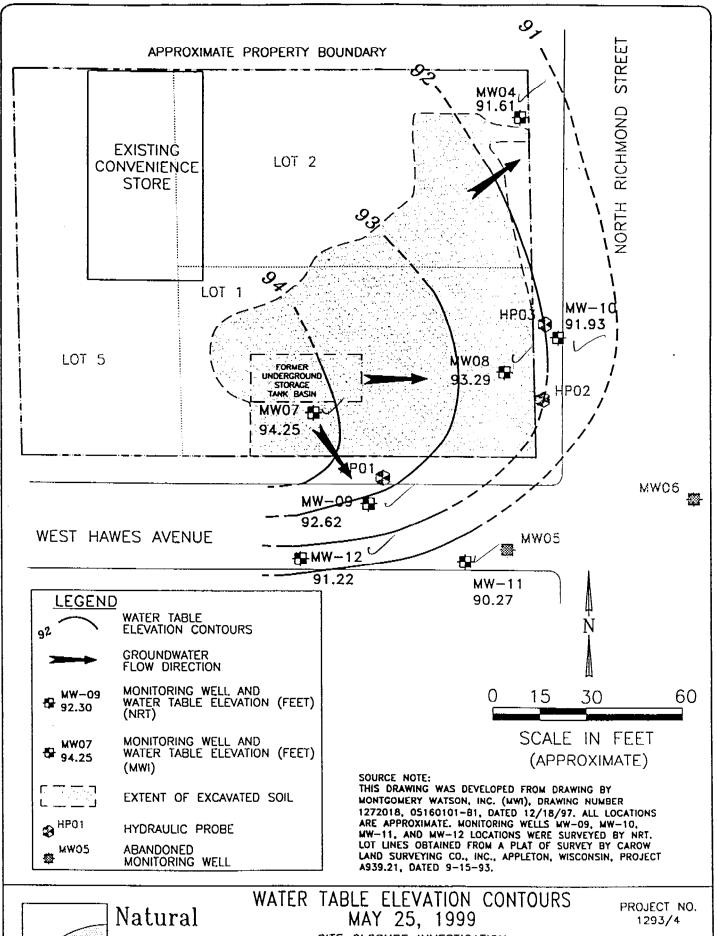
nd: not detected

--. Not listed in the Montgomery Watson Table

<--- Parameter was not identified above the analytical detection

Elevated detection limit

: Feld duplicate sample **: Peld duplicate sample *: PAL and ES for combined I,2,4- & 1,3,5-trimethylbenzene





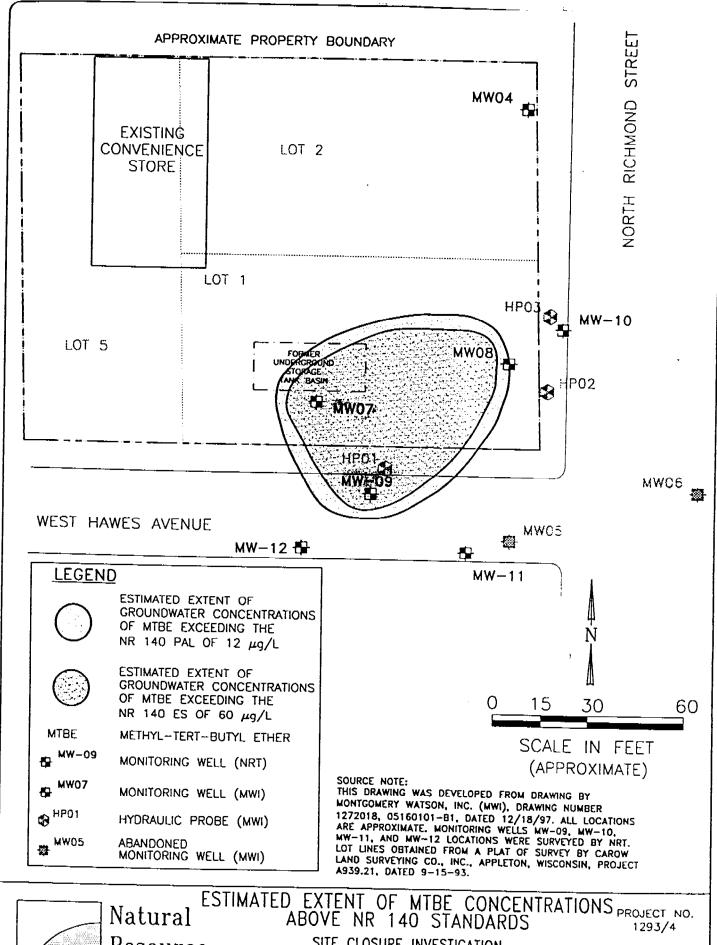
Resource Technology

SITE CLOSURE INVESTIGATION CITGO SERVICE STATION 1601 NORTH RICHMOND STREET APPLETON, WISCONSIN

DRAWN BY: TAS 08/04/99 APPRVD BY: CL DRAWING NO. 1293-A03

FIGURE NO.

DATE: (9/21/99





Resource Technology

SITE CLOSURE INVESTIGATION CITGO SERVICE STATION

1601 NORTH RICHMOND STREET APPLETON, WISCONSIN DRAWN BY: TAS 08/04/99

APPRVD BY: ALV

DRAWING NO. 1293-A05

FIGURE NO. DATE: 09 /21/99

TABLE 2

Summary of On-Site Groundwater Analytical Results North Richmond Street Service Station 1601 North Richmond Street Appleton, Wisconsin

Concentration, in micrograms per liter (µg/L)

Well <u>Number</u>	Date <u>Sampled</u>	Benzene	Ethyl <u>Benzene</u>	<u>Toluene</u>	Xylenes	Methyl Tert- Butyl Ether	Pb
MW1 (مر 17-Mar-92	9,800	889	2,400	2,690a	3 5,00 0	TO S
MW2 f	℃ 17-Mar-92	3,100	1,400	ND	9;100	330÷	(W.)Q
MW3	ار _{17-Mar-92}	ND	1.6	1.7	8.2	7.9	111)
MW4	l'~∟17-Mar-92	ND	ND	ND	ND	ND	ND
	4 - Jan-94	ND	ND	ND	ND	6	
	19-Apr-94	ND	ND	ND	ND	ND	
	30-Jun-94	2	ND	ND	ND	ND	
	6-Oct-94	ND	ND	ND	ND	4	
	17-Jan - 95	ND	ND	ND	ND	1.2	
	25-Apr-95	ND	ND	ND	ND	1.6	
	14 - Jul-95	ND	ND	ND	ND	1.6	
	3-Oct-97	ND	ND	ND	ND	3.3	
MW7	4-Jan-94	ND	ND	ND	ND	4,400	
	19 - Apr-94	ND	ND	ND	ND	550	
	30-Jun-94	ND	ND	ND	ND	1,100	
	6-Oct-94	ND	ND	ND	ND	300	
	17-Jan-95	ND	0.4e	ND	ND	2,200	
	25-Apr-95	0.2e	ND	ND	ND	630	
	14 - Jul-95	ND	43	26	78	3,800	
	3 - Oct-97	ND	ND	ND	ND	350⊛	
MW8	4-Jan-94	ND	ND	ND	ND	19	
	19-Apr-94	ND	ND	ND	ND	6	
	30-Jun-94	ND	ND	ND	ND	38	
	6-Oct-94	ND	ND	ND	ND	19	
	17-Jan-95	ND	ND	ND	ND	25	
	25-Apr-95	ND	ND	0.2	ND	3.2	
	14-Jul-95	ND	ND	ND	ND	47	
	3-Oct-97	ND	ND	ND	ND	13	
Chapter N	R 140 Standards						
Preventive	Action Limit	0.5	140	68.6	124	12	
Enforcement	nt Standard	5	700	343	620	60	

Notes:

- 1. ND = designates analyte not detected above laboratory quantitation limit.
- 2. e = indicates concentration is estimated.
- 3. Groundwater monitoring wells MW1, MW2, and MW3 are abandoned prior to the excavation of the contaminated soils on August 24, 1993.

TABLE 4

Summary of Off-Site Groundwater Analytical Results
North Richmond Street Service Station
1601 North Richmond Street
Appleton, Wisconsin

Concentration, in micrograms per liter (µg/L)

Well/Probe <u>Number</u>	Date <u>Sampled</u>	Benzene	Ethyl <u>Benzene</u>	Toluene	Xylenes	Methyl Tert- Butyl Ether	1,2,4-TMB	1,3,5-TMB
MWS	24-May-93	S	S	2	2	2	Ę	8
MW6	24-May-93	Ð	Ð	1.8	2	S S	2	S
HP01	17-Nov-97	9	<u>R</u>	S	Q	400 400	S S	QN QN
Chapter NR 140 Standards	40 Standards							
Preventive Act	ion Limit	0.5	140	9.89	124	.12	None	None
Enforcement Standard	tandard	Ś	700	343	620	09	None	None

John

- 1. ND = designates analyte not detected above laboratory quantitation limit.
 - 2. TMB = Trimethylbenzene
- 3. Groundwater monitoring wells MW5 and MW6 were temporary and were installed prior to the excavation of the contaminated soils on August 24, 1993.